

STATE OF NEW YORK  
SUPREME COURT      COUNTY OF WARREN

H.D.B. and J.B.,  
anonymous parties pursuant to  
Civil Rights Law Section 50-b,

Plaintiffs,

against

SUMMONS

GARY J. MECURE  
address unknown;  
CHURCH OF OUR LADY OF THE ANNUNCIATION,  
ROMAN CATHOLIC CHURCH  
448 Aviation Road  
Queensbury, New York 12804;  
THE ROMAN CATHOLIC DIOCESE OF ALBANY  
40 North Main Avenue  
Albany, New York 12203; and;  
THE FOUNDATION OF THE ROMAN CATHOLIC  
DIOCESE OF ALBANY, NEW YORK, INC.,  
40 North Main Avenue  
Albany, New York 12203,

Index No.  
Date Issued

Defendants.

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TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiffs' attorneys within (20) days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Trial to be held in the County of Warren. The basis of venue is that the plaintiffs (CPLR § 503) reside in Warren County.

Dated: August 21, 2019



Brennan & White, LLP  
Attorney for Plaintiffs  
163 Haviland Road  
Queensbury, New York 12804  
Tel. (518) 793-3424

STATE OF NEW YORK  
SUPREME COURT                      COUNTY OF WARREN

H.D.B. and J.B.,  
anonymous parties pursuant to  
Civil Rights Law Section 50-b,

Plaintiffs,

COMPLAINT

against

Index No.  
Date Issued

GARY J. MECURE; CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC  
CHURCH; THE ROMAN CATHOLIC DIOCESE OF  
ALBANY; and THE FOUNDATION OF THE ROMAN  
CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC.,

Defendants.

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H.D.B. and J.B., anonymous parties pursuant to Civil Rights Law Section 50-b, by their attorneys,  
Brennan & White, LLP, complaining of each of the defendants, Gary J. Mercure, Church of Our Lady of  
the Annunciation, Roman Catholic Church, The Roman Catholic Diocese of Albany, and The Foundation  
of the Roman Catholic Diocese of Albany, New York, Inc., jointly and severally, allege as follows:

1. At all times hereinafter mentioned, the plaintiff, H.D.B., (hereinafter "H.B.") was and still  
is a resident of the County of Warren and State of New York, and the plaintiff, J.B., was and still is a  
resident of the County of Warren and State of New York, and was and still is the lawful spouse of the  
plaintiff, H.B., and this action is timely and properly commenced in accordance with the Civil Practice Law  
and Rules and Civil Rights Law.
2. Upon information and belief, at all times hereinafter mentioned, the defendant, Gary J.  
Mercure, was at all time relevant to the claims and contentions set forth herein, present, within and a  
resident of the County of Warren, State of New York.

3. Upon information and belief, at all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, was and still is a house of worship, private church, private school, educational facility and learning center, a place of gathering for members of the general public and religious establishment, located at 448 Aviation Road, Queensbury, New York, 12804.

4. Upon information and belief, at all times hereinafter mentioned, the defendant, The Roman Catholic Diocese of Albany, was and still is a not-for-profit domestic entity, organization, corporation or business, duly organized and existing under and by virtue of the laws of the State of New York, with its principal offices located at 40 North Main Avenue, Albany, New York, and having a place of business located at 448 Aviation Road, Queensbury, New York, 12804.

5. Upon information and belief, at all times hereinafter mentioned, the defendant, The Roman Catholic Diocese of Albany, was and still is duly licensed and authorized to do business within the State of New York, and maintains various offices and places of business, including locations within the County of Warren.

6. Upon information and belief, at all times hereinafter mentioned, the defendant, The Roman Catholic Diocese of Albany, organized, instituted, controlled, governed, staffed, equipped and maintained certain facilities, premises and property, including that which was located at the Church of Our Lady of the Annunciation, Roman Catholic Church, at 448 Aviation Road, Queensbury, New York.

7. Upon information and belief, at all times hereinafter mentioned, the defendant, The Foundation of the Roman Catholic Diocese of Albany, New York, Inc., was and still is a not-for-profit domestic entity, organization, corporation or business, duly organized and existing under and by virtue of the laws of the State of New York, with its principal offices located at 40 North Main Avenue, Albany, New York, and having a place of business located at 448 Aviation Road, Queensbury, New York, 12804.

8. Upon information and belief, at all times hereinafter mentioned, the defendant, The Foundation of the Roman Catholic Diocese of Albany, New York, Inc., organized, instituted, controlled, governed, staffed, equipped and maintained certain facilities, premises and property, including that which was located at the Church of Our Lady of the Annunciation, Roman Catholic Church, at 448 Aviation Road, Queensbury, New York.

9. At all times hereinafter mentioned, the defendant, Gary Mercure, and others as hereinafter set forth, were employees, agents, officials, representatives, fathers, priests, pastors or members of one or more of the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, The Roman Catholic Diocese of Albany and The Foundation of the Roman Catholic Diocese of Albany, New York, Inc., and at all times hereinafter mentioned, were acting under the control of and with the authority of said defendants.

10. Upon information and belief, at all times hereinafter mentioned, the defendant, Gary Mercure, and others as hereinafter set forth, were acting within the scope of and under the direction, control and supervision of one or more or each of the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, The Roman Catholic Diocese of Albany and The Foundation of the Roman Catholic Diocese of Albany, New York, Inc.

11. At all times hereinafter mentioned, each of the defendants, Gary Mercure, Church of Our Lady of the Annunciation, Roman Catholic Church, The Roman Catholic Diocese of Albany and The Foundation of the Roman Catholic Diocese of Albany, New York, Inc., their employees, agents, officials, representatives, fathers, priests, pastors or members, had a duty to provide adequate and proper protection, control and supervision of all guests, patrons, members, parishioners, students and members of the public, including the plaintiff, H.B., while on defendants' property and premises.

12. Upon information and belief, at all times hereinafter mentioned, each of the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, The Roman Catholic Diocese of Albany and The Foundation of the Roman Catholic Diocese of Albany, New York, Inc., jointly and severally, provided, allowed, permitted the defendant, Gary Mercure, and others, unrestricted, unfettered and complete access to the aforementioned property and premises, upon and in which the conduct hereinafter described did occur.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST THE  
DEFENDANT, GARY MERCURE, THE PLAINTIFF,  
H.B., ALLEGES AS FOLLOWS:

13. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "12" above, with the same force and effect as if fully set forth at length herein.

14. Upon information and belief, at all times hereinafter mentioned, the defendant, Gary Mercure, and others, were between approximately 1982 and 1992, duly authorized representatives of the remaining named defendants and were acting as priests, pastors, fathers, and authorized parish and diocese leaders of the Church of the Lady of the Annunciation, Roman Catholic Church.

15. Between approximately 1982 and 1992, the plaintiff, H.B., was on the property and premises of the defendants as a member of the general public, as a student, parishioner and an altar boy under the custody, control, supervision and direction of each of the defendants, either vicariously or by direct contact.

16. Upon information and belief, at all times hereinafter mentioned, between 1982 and 1992, the defendant, Gary Mercure, and others, were working within their capacity as employees and as duly authorized representatives of the aforementioned defendants and were acting within the scope of their employment, authority and representation.

17. Upon information and belief, between approximately 1982 and 1992, the defendant, Gary Mercure, and other, did commit an assault and intentional tort upon the plaintiff, H.B., by amongst other things, touching and otherwise sexually abusing said plaintiff, and which assault and intentional tort caused serious injuries and damages to the plaintiff, as hereinafter alleged.

18. The assault and intentional tort and the damages and injuries resulting to the Plaintiff, H.B., therefrom, were caused by the willful, intentional and malicious actions of the defendant, Gary Mercure, and others, without any cause on the part of the plaintiff contributing thereto.

19. As a result of the assault and intentional tort of the defendant, Gary Mercure, and others, upon the person of the plaintiff, H.B., as previously set forth, the plaintiff, H.B., sustained serious and permanent injuries.

20. Upon information and belief, as a result of the aforementioned conduct of the defendant, Gary Mercure, and others, upon the plaintiff, H.B., the defendant, Gary Mercure, was convicted of a crime and the plaintiff, H.B., was and remains the victim of said crime, which crime is the subject of this action and pursuant to and in accordance with the recent amendments to the CPLR, this action is timely commenced.

21. By reason of the assault and intentional tort of the defendant, Gary Mercure, and others, upon the person of the plaintiff, H.B., as aforesaid, the plaintiff sustained severe and permanent injuries, and has suffered and still suffers and will continue to suffer, great physical and mental pain and anguish, all in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

22. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST THE  
DEFENDANT, GARY MERCURE, THE PLAINTIFF,  
H.B., ALLEGES AS FOLLOWS:

23. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "22" above, with the same force and effect as if fully set forth at length herein.

24. Upon information and belief, at all times hereinafter mentioned, the defendant, Gary Mercure, and others, engaged in extreme and/or outrageous conduct and otherwise engaged in a manner of abuse which transcends the bounds of decency so as to be regarded as intolerable within our society.

25. Upon information and belief, at all times hereinafter mentioned, the defendant, Gary Mercure, and others, intended to cause an intentional infliction of emotional distress or disregarded the substantial probability of causing such distress or recklessly caused such distress.

26. At all times hereinafter mentioned, the defendants' actions caused the plaintiff to sustain emotional and psychological distress, physical damage and injury.

27. As a result of the intentional infliction of emotional distress by the defendant, Gary Mercure, and others, the plaintiff, H.B., was caused to suffer detention and a deprivation of his liberty, great mental and physical distress, injury, humiliation, was subjected to public and private embarrassment and scorn among those who knew him and among the general community, and has otherwise been damaged.

28. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.



AS AND FOR A THIRD CAUSE OF ACTION AGAINST  
THE DEFENDANT, GARY MERCURE, THE  
PLAINTIFF, H.B., ALLEGES:

29. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "28" above, with the same force and effect as if fully set forth at length herein.

30. Upon information and belief, at all times hereinafter mentioned, the defendant, Gary Mercure, and others, engaged in and otherwise performed specific acts which caused damage to the plaintiff, H.B., and the defendants' acts were willful and without reasonable basis.

31. The acts were performed by the defendant without legal or social justification and with the deliberate intent of injuring the plaintiff.

32. As a result of the *prima facie* tort undertaken by the defendant, Gary Mercure, and others, the plaintiff, H.B., was caused to suffer detention, great mental distress, injury, humiliation, was subjected to public and private embarrassment and scorn among those who knew him and among the general community, and has otherwise been damaged.

33. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST  
THE DEFENDANT, GARY MERCURE, THE  
PLAINTIFF, H.B., ALLEGES:

34. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "33" above, with the same force and effect as if fully set forth at length herein.

35. At all times hereinafter mentioned, the Defendant, Gary Mercure, and others, had a duty to provide adequate and proper protection, control and supervision of all people, including the plaintiff, H.B., while upon defendants' property and premises.

36. Between 1982 and 1992, the defendant, Gary Mercure, and others, carelessly and negligently failed, among other things, to adequately supervise and control the actions of certain representatives, agents and officials, thereby causing injuries to the plaintiff, H.B..

37. The aforementioned injuries to the plaintiff were caused by the carelessness and negligence of the defendant, Gary Mercure, and others.

38. By reason of the aforementioned carelessness and negligence of the defendant, Gary Mercure, and others, the aforesaid plaintiff, H.B., sustained injuries and has suffered physical and mental pain and anguish and was and has been under the care, attendance and treatment of physicians.

39. The amount of damages sought in this action exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH, THE ROMAN  
CATHOLIC DIOCESE OF ALBANY, AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

40. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "39" above, with the same force and effect as if fully set forth at length herein.

41. Upon information and belief, at all times hereinafter mentioned, each of the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, the Roman Catholic Diocese of Albany, and the Foundation of the Roman Catholic Diocese of Albany, New York, Inc., their agents, officers, officials, employees, representatives, priests, fathers, parish and diocese leaders and pastors (hereinafter referred to jointly, severally and collectively as the defendant, "Church of Our Lady of the Annunciation, Roman Catholic Church"), had actual or constructive knowledge of, was aware of, knew of or should have

known of the acts, activities and undertakings of the defendant, Gary Mercure, and other representatives of the defendants.

42. At all times hereinafter mentioned, the Defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, had a duty to provide adequate and proper protection, control and supervision of all people including the plaintiff, H.B., while on property and premises.

43. Between 1982 and 1992, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, by and through its agents, servants, representatives and employees, including but not limited to the defendant, Gary Mercure, breached its duty by carelessly and negligently failing, among other things not set forth herein, to adequately supervise and control the actions of its representatives, agents and officials, thereby causing injuries to the plaintiff, H.B., and did otherwise present, provide, allow for and create a dangerous condition for members of the general public, parishioners and individuals, including but not limited to, the plaintiff, H.B.

44. The aforementioned injuries to the plaintiff were caused by the carelessness and negligence of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, its agents, servants, representatives and employees.

45. By reason of the aforementioned carelessness and negligence of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, the aforesaid plaintiff, H.B., sustained injuries and has suffered physical and mental pain and anguish and was and has been under the care, attendance and treatment of physicians.

46. The amount of damages sought in this action exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH, THE ROMAN  
CATHOLIC DIOCESE OF ALBANY, AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

47. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "46" above, with the same force and effect as if fully set forth at length herein.

48. Upon information and belief, between approximately 1982 and 1992, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, did commit an assault and intentional tort upon the plaintiff, H.B., by amongst other things, touching and otherwise sexually abusing said plaintiff, and which assault and intentional tort caused serious injuries and damages to the plaintiff, as hereinafter alleged.

49. The assault and intentional tort and the damages and injuries resulting to the plaintiff, H.B., therefrom, were caused by the willful, intentional and malicious actions of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, without any cause on the part of the plaintiff contributing thereto.

50. As a result of the assault and intentional tort of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, upon the person of the plaintiff, H.B., as previously set forth, the plaintiff, H.B., sustained serious and permanent injuries.

51. Upon information and belief, as a result of the aforementioned conduct of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, upon the plaintiff, H.B., the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, was convicted of a crime and the

plaintiff, H.B., was and remains the victim of said crime, which crime is the subject of this action and pursuant to and in accordance with the recent amendments to the CPLR, this action is timely commenced.

52. By reason of the assault and intentional tort of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, upon the person of the plaintiff, H.B., as aforesaid, the plaintiff sustained severe and permanent injuries, and has suffered and still suffers and will continue to suffer, great physical and mental pain and anguish, all in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

53. By reason of the doctrines of respondeat superior and vicarious liability, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, was and remains responsible for the actions of the remaining defendants.

54. By reason of the assault and intentional tort of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, upon the person of the plaintiff, H.B., as aforesaid, the plaintiff sustained severe and permanent injuries, and has suffered and still suffers and will continue to suffer, great physical and mental pain and anguish, all in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

55. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH, THE ROMAN  
CATHOLIC DIOCESE OF ALBANY, AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

56. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "55" above, with the same force and effect as if fully set forth at length herein.

57. At all times hereinafter mentioned, the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, *et. al.*, employed for good and valuable consideration and pursuant to agreement, certain officers, servants, representatives or employees, working and affiliated with Church of the Annunciation, Roman Catholic Church, located at 448 Aviation Road, Queensbury, New York, and otherwise engaged, utilized and secured certain individuals and staffed said location with the same.

58. Upon information and belief, at all times hereinafter mentioned, between 1982 and 1992, the aforementioned officers, servants, agents, representatives and employees were working and acting within their capacity as representatives of the aforementioned defendant and were acting within the scope of their relationship.

59. At all times hereinafter mentioned, the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, *et. al.*, were negligent and careless in supervision, development, deployment, implementation, education and training of the aforementioned representatives, and as a result thereof, the plaintiff, H.B., was caused to sustain serious and permanent injuries, without any negligence on the part of the plaintiff contributing thereto.

60. At all times hereinafter mentioned, by reason of the careless and negligent actions and activities of the agents, officers, representatives, priests and pastors of the defendants, Church of Our Lady

of the Annunciation, Roman Catholic Church, *et. al.*, occurring between 1982 and 1992, the plaintiff, H.B., was caused to incur and sustain serious and permanent injuries.

61. Upon information and belief, at all times hereinafter mentioned, at the aforementioned time and place, the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, *et. al.*, their agents, officers, servants, representatives and employees, were negligent and careless for reasons which include, but are not limited to, the failure to supervise and control, the failure to provide proper training and education, the failure to reasonably hire, investigate, discipline, regulate and evaluate employees, representatives and agents as set forth herein, and in failing to safeguard and protect those persons under their supervision and control.

62. By reason of the carelessness and negligence of the defendants, Church of Our Lady of the Annunciation, Roman Catholic Church, *et. al.*, their agents, officers, representatives and employees, the plaintiff, H.B., sustained serious severe and painful injuries, both internal and external, some of which are permanent, and has suffered and still suffers great mental and physical anguish and has been disabled and so remains and will continue to remain and has been prevented from continuing his usual way of life in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

63. The aforementioned injuries to the plaintiff were caused by the carelessness and negligence of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, its agents, servants, representatives and employees.

64. By reason of the aforementioned carelessness and negligence of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, the aforesaid plaintiff, H.B., sustained injuries and has suffered physical and mental pain and anguish and was and has been under the care, attendance and treatment of physicians.

65. The amount of damages sought in this action exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

AS AND FOR AN EIGHTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH; THE ROMAN  
CATHOLIC DIOCESE OF ALBANY; AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

66. The plaintiff repeats and realleges each and every allegation set forth in paragraphs "1" through "65" above, with the same force and effect as if more fully set forth at length herein.

67. At all times hereinafter mentioned, by reason of the defendants' actions between 1982 and 1992, the plaintiff, H.B., incurred monetary expenses and other damages, including the costs incurred for medical care and treatment.

68. The amount of damages sought in this action exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

AS AND FOR A NINTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH; THE ROMAN  
CATHOLIC DIOCESE OF ALBANY; AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

69. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "68" above, with the same force and effect as if fully set forth at length herein.

70. Upon information and belief, at all times hereinafter relevant, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, had actual or constructive knowledge of, was aware of, knew or should have known or had been advised that its representatives, official and agents had engaged in the conduct complained of, alleged and asserted herein.



71. Upon information and belief, notwithstanding such knowledge, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, conspired with, acquiesced in, or otherwise accepted, approved and/or ignored the conduct of other agents and officials as complained of, alleged and asserted herein.

72. Upon information and belief, at all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, knew or should have known that its representatives and agents had engaged in conduct complained of herein, and did thereafter allow, permit, cause and consent to such conduct.

73. In conspiring to cause, create, initiate, act, fail to act, acquiesce, conspire or ignore, the conduct complained of herein, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, acted wrongfully, illegally, unlawfully and maliciously.

74. Upon information and belief, at all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, intended to engage in the conduct complained of herein and confined and may have conspired with others to unlawfully and illegally confine, detain, restrain and abuse the plaintiff, H.B.

75. At all times hereinafter mentioned, the plaintiff, H.B., was cognizant, conscious and aware of the conduct and at no time did the plaintiff, H.B., then an infant, consent to such confinement or conduct, nor was such confinement privileged, nor could consent have been obtained as a matter of law.

76. As a result of the actions of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, which resulted in the abuse, conduct, behavior, sexual abuse and actions all as set forth herein, the plaintiff, H.B., suffered injury, trauma, physical, psychological, emotional and mental distress, was subjected to public and private humiliation, embarrassment and scorn among those who knew him within the general community, and was otherwise injured in his character and reputation.

77. Upon information and belief, at all times hereinafter mentioned, it was and became the policy of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, to accept, incorporate, acquiesce and advocate, as policy, said actions of its agents, officials, officers, servants and employees, including the defendant, Gary Mercure, and others, and to otherwise offer complete acquiescence, as policy, towards the actions of its employees, officers, agents, servants, or officials, including the defendant, Gary Mercure, and others, without reasonable review as to said actions.

78. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A TENTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH; THE ROMAN  
CATHOLIC DIOCESE OF ALBANY; AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

79. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "78" above, with the same force and effect as if fully set forth at length herein.

80. At all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, its officers, officials, agents, servants or employees, did negligently and carelessly and without "good faith", investigate the acts, activities, occurrences, claims and contentions which did allegedly occur between approximately 1982 and 1992, and did thereafter allow, accept, ignore, conspire and acquiesce in such conduct.

81. At all times hereinafter mentioned it was and became a policy of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, to acquiesce, permit, allow, direct or authorize such acts of its agents, officers, servants, officials and/or employees.

82. At all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, its officers, officials, agents, servants or employees, did negligently and carelessly and without "good faith", investigate this matter and did thereafter ignore, refuse to accept and reject the conduct complaint of herein.

83. As a result of the negligence and carelessness and lack of "good faith" of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, its officers, officials, agents, servants or employees, the plaintiff, H.B., was caused to suffer great mental and physical distress, injury, humiliation, was subjected to public and private embarrassment and scorn among those who knew him and among the general community, and has otherwise been damaged.

84. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR AN ELEVENTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH; THE ROMAN  
CATHOLIC DIOCESE OF ALBANY; AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

85. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "84" above, with the same force and effect as if fully set forth at length herein.

86. At all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, employed, for good and valuable consideration and pursuant to agreement, or otherwise engaged, secured and placed certain priests, fathers, clerics, parish and diocese officials, servants, representatives or employees, working and affiliated with churches, ministries, retreats and facilities located in Warren County and elsewhere.

87. Upon information and belief, at all times hereinafter mentioned, between approximately 1982 and 1992, the aforementioned priests, fathers, clerics, parish and diocese officials, servants, agents, representatives and employees were working and acting within their capacity as employees and representatives of the aforementioned defendant and were acting within the scope of their employment and representation.

88. At all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, was negligent and careless in its supervision, development, deployment, implementation, education and training of the aforementioned priests, fathers, clerics, parish officials, servants, agents, representatives and employees, and as a result thereof, the plaintiff, H.B., was caused to sustain serious and permanent injuries, without any negligence on the part of the plaintiff contributing thereto.

89. At all times hereinafter mentioned, by reason of the careless and negligent actions and activities of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, occurring between approximately 1982 and 1992, the plaintiff, H.B., was caused to incur and sustain serious and permanent injuries.

90. Upon information and belief, at all times hereinafter mentioned, at the aforementioned time and place, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, its agents, officers, servants, representatives and employees was negligent and careless for reasons which include, but are not limited to, the failure to supervise and control, the failure to provide proper training and education, the failure to reasonably hire, investigate, discipline, regulate and evaluate employees and representatives and in failing to safeguard and protect members of the general public from employees and representatives.

91. By reason of the carelessness and negligence of the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, its agents, officers, representatives and employees, the plaintiff, H.B., sustained serious severe and painful injuries, both internal and external, some of which are

permanent and have suffered and still suffers great mental and physical anguish and has been disabled and so remains and will continue to remain and has been prevented from continuing his usual way of life in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

92. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR AN TWELFTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH; THE ROMAN  
CATHOLIC DIOCESE OF ALBANY; AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

93. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "92" above, with the same force and effect as if fully set forth at length herein.

94. Upon information and belief, at all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, engaged in extreme and/or outrageous conduct and otherwise engaged in a manner of abuse which transcends the bounds of decency so as to be regarded as intolerable within our society.

95. Upon information and belief, at all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, intended to cause an intentional infliction of emotional distress or disregarded the substantial probability of causing such distress or recklessly caused such distress.

96. At all times hereinafter mentioned, the defendant's actions caused the plaintiff to sustain emotional and psychological distress, physical damage and injury.

97. As a result of the intentional infliction of emotional distress by the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, the plaintiff, H.B., was caused to suffer detention

and a deprivation of his liberty, great mental and physical distress, injury, humiliation, was subjected to public and private embarrassment and scorn among those who knew him and among the general community, and has otherwise been damaged.

98. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR AN THIRTEENTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH; THE ROMAN  
CATHOLIC DIOCESE OF ALBANY; AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, H.B., ALLEGES:

99. The plaintiff, H.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "98 above, with the same force and effect as if fully set forth at length herein.

100. Upon information and belief, at all times hereinafter mentioned, the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, engaged in and otherwise performed specific acts which caused damage to the plaintiff, H.B., and the defendant's acts were willful and without reasonable basis.

101. The acts were performed by the defendant without legal or social justification and with the deliberate intent of injuring the plaintiff.

102. As a result of the *prima facie* tort undertaken by the defendant, Church of Our Lady of the Annunciation, Roman Catholic Church, the plaintiff, H.B., was caused to suffer detention, great mental distress, injury, humiliation, was subjected to public and private embarrassment and scorn among those who knew him and among the general community, and has otherwise been damaged.

103. By reason of the foregoing, the plaintiff, H.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTEENTH CAUSE OF ACTION AGAINST  
EACH OF THE DEFENDANTS, CHURCH OF OUR LADY OF THE  
ANNUNCIATION, ROMAN CATHOLIC CHURCH; THE ROMAN  
CATHOLIC DIOCESE OF ALBANY; AND THE FOUNDATION OF THE  
ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK, INC., JOINTLY  
AND SEVERALLY, THE PLAINTIFF, J.B., ALLEGES:

104. The plaintiff, J.B., repeats and realleges each and every allegation set forth in paragraphs "1" through "103" above, with the same force and effect as if fully set forth at length herein.

105. At all times hereinafter mentioned, the plaintiff, J.B., was and still is the lawful spouse of the plaintiff, H.B., and was and still is entitled to the health, comfort, consortium, society, companionship and services of the plaintiff, H.B.


106. As a result of the accident and the injuries to the plaintiff, H.B., as alleged herein, the plaintiff, J.B., has been and will be deprived of the society, comfort, consortium, work, services and companionship of her husband, the plaintiff, H.B., and as a result of the foregoing, has been damaged.

107. By reason of the foregoing, the plaintiff, J.B., has been damaged and seeks damages, both compensatory and punitive, costs, expenses and attorney's fees as may be permitted by law, all in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction

WHEREFORE, the plaintiff, H.B., demands judgment against each of the defendants, Gary J. Mercure, Church of Our Lady of the Annunciation, Roman Catholic Church, The Roman Catholic Diocese of Albany, and The Foundation of the Roman Catholic Diocese of Albany, New York, Inc., jointly and severally, as set forth in each separate and distinct cause of action, in amounts which exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction, as well as punitive damages as permitted by law, costs, expenses, and attorneys' fees as may be permitted by law and the

plaintiff, J.B., demands judgment against each of the said defendants in amounts which exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction, along with such other and further relief as to the Court may seem just and proper.

Dated: August 21, 2019



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